

**SUPREME COURT MINUTES
THURSDAY, MAY 5, 2005
SAN FRANCISCO, CALIFORNIA**

The Supreme Court of California reconvened in the courtroom of the Earl Warren Building, 350 McAllister Street, Fourth Floor, San Francisco, California, on May 5, 2005, at 9:00 a.m.

Present: Chief Justice Ronald M. George, presiding, and Associate Justices Kennard, Baxter, Werdegarr, Chin, Brown, and Moreno.

Officers present: Frederick K. Ohlrich, Clerk; and Gail Gray, Calendar Coordinator.

S115495 Patrick O’Riordan, Plaintiff and Appellant

v.

Federal Kemper Life Assurance Company, et al.,
Defendants and Respondents

Cause called. Robin K. Perkins argued for Appellant.

David A. Firestone argued for Respondents.

Mr. Perkins replied.

Cause submitted.

S123238 MW Erectors, Inc., Plaintiff and Appellant

v.

Niederhauser Ornamental and Metal Work Company, Inc., et al.,
Defendants and Respondents

Cause called. William S. Davis argued for Respondents.

Norman Pine argued for Appellant.

Mr. Davis replied.

Cause submitted.

S126630 Philip LeFrancois, et al., Plaintiff and Appellants

v.

Prabhu Goel, et al., Defendant and Respondents

Cause called. Jon B. Zimmerman argued for Appellants.

Paul D. Fogel argued for Respondents.

Mr. Zimmerman replied.

Cause submitted.

Court recessed until 1:30 p.m. this date.

Court reconvened pursuant to recess.

Members of the Court and Officers present as first shown.

S019697 The People, Respondent
 v.
 Carmen Lee Ward, Appellant
 Cause called. Robert Howell argued for Appellant.
 Kenneth N. Sokoler, Office of the Attorney General, argued for
Respondent.
 Mr. Howell replied.
 Cause submitted.

S039632 The People, Respondent
 v.
 Robert Paul Wilson, Appellant
 Cause called. Timothy J. Foley argued for Appellant.
 Chung K. Mar, Office of the Attorney General, argued for
Respondent.
 Mr. Foley replied.
 Cause submitted.

Court adjourned.

S109735

B149088 Second Appellate District,
Division Seven

JULIAN v. HARTFORD UNDERWRITERS

Opinion filed: Judgment affirmed in full

Majority Opinion by Moreno, J.

--- joined by George, C.J., Kennard, Werdegarr
and Chin, JJ.

Concurring Opinion by Brown, J.

--- joined by Baxter, J.

S133463

B182482 Second Appellate District,
Division Seven

**LOS ANGELES, CITY OF v. S.C. (KEYSER
TOWING CORP.)**

Petition for review and application for stay denied

S133566

D045481 Fourth Appellate District,
Division One

**BLACK HISTORICAL SOCIETY OF SAN DIEGO v.
4TH DISTRICT COUR OF APPEAL, DIVISION ONE**

Application for stay and application for transfer denied

S131816

C044026 Third Appellate District

PEOPLE v. LYNOTT

Time extended to grant or deny review

to June 10, 2005

S132176

H026086 Sixth Appellate District

PEOPLE v. CASTILLO

Time extended to grant or deny review

to June 13, 2005

S132221

F044592 Fifth Appellate District

PEOPLE v. STANKEWITZ

Time extended to grant or deny review

to June 10, 2005

S132251

E035868 Fourth Appellate District,
Division Two

**MT. SAN JACINTO COMMUNITY COLLEGE v. S.C.
(AZUSA PACIFIC UNIVERSITY)**

Time extended to grant or deny review

to June 15, 2005

S132272

C042532 Third Appellate District

PEOPLE v. JOHNSON

Time extended to grant or deny review

to June 15, 2005

S132302G028855 Fourth Appellate District,
Division Three

ORANGE, COUNTY OF v. PINTO

Time extended to grant or deny review

to June 14, 2005

S132316

C040014 Third Appellate District

PEOPLE v. BREWER

Time extended to grant or deny review

to June 16, 2005

S132413E033792 Fourth Appellate District,
Division Two

PEOPLE v. DAWOOD

Time extended to grant or deny review

to June 16, 2005

S132431D043159 Fourth Appellate District,
Division One

PEOPLE v. RUCKER

Time extended to grant or deny review

to June 16, 2005

S132432E035754 Fourth Appellate District,
Division Two

MKA CAPITAL GROUP v. DARLING

Time extended to grant or deny review

to including June 16, 2005

S031603

PEOPLE v. LEWIS (JOHN)

Extension of time granted

to May 27, 2005 to file appellant's reply brief. Extension is granted based upon Assistant State Public Defender Kathleen M. Scheidel's representation that she anticipates filing that brief by 5/27/2005. After that date, no further extension will be granted.

S056842

PEOPLE v. RICCARDI (JOHN A.)

Extension of time granted

to June 29, 2005 to file appellant's reply brief. Extension is granted based upon counsel Carla J. Johnson's representation that she anticipates filing that brief by 6/29/2005. After that date, no further extension is contemplated.

S058734

PEOPLE v. HOLMES, MCCLAIN & NEWBORN

Extension of time granted

to July 5, 2005 to file appellant HOLMES' opening brief. After that date, only nine further extensions totaling about 540 additional days will be granted. Extension is granted based upon counsel Karen Kelly's representation that she anticipates filing that brief by 12/23/2006.

S061026

PEOPLE v. MCCURDY (GENE E.)

Extension of time granted

to July 8, 2005 to file appellant's opening brief. After that date, only four further extensions totaling about 240 additional days will be granted. Extension is granted based upon Deputy State Public Defender Gary D. Garcia's representation that he anticipates filing that brief by 3/2006.

S072161

PEOPLE v. POTTS (THOMAS)

Extension of time granted

to July 8, 2005 to file appellant's opening brief. After that date, only four further extensions totaling about 240 additional days will be granted. Extension is granted based upon Deputy State Public Defender Michael P. Goldstein's representation that he anticipates filing that brief by 3/3/2006.

S074624

PEOPLE v. MARTINEZ (TOMMY JESSE)

Extension of time granted

to June 30, 2005 to file appellant's opening brief. Extension is granted based upon counsel Christopher Johns's representation that he anticipates filing that brief by 6/30/2005. After that date, no further extension is contemplated.

S107856

CREW (MARK C.) ON H.C.

Extension of time granted

to 6/10/2005 to file the reply to the return. Extension is granted based upon Assistant State Public Defender Andrew S. Love's representation that he anticipates filing that document by 6/10/2005. After that date, no further extension will be granted.

S115250

GURULE (RAYMOND) ON H.C.

Extension of time granted

to June 8, 2005 to file the informal response to the petition for writ of habeas corpus. After that date, only eight further extensions totaling about 230 additional days will be granted. Extension is granted based upon Deputy Attorney General Jeffrey M. Bryant's representation that he anticipates filing that document by 2/1/2006.

S126775

HUGHES (KRISTIN) ON H.C.

Extension of time granted

to June 2, 2005 to file the reply to the informal response to the petition for writ of habeas corpus. Extension is granted based upon counsel Wesley A. Van Winkle's representation that he anticipates filing that document by 6/2/2005. After that date, no further extension is contemplated.

S130977

B168810 Second Appellate District,
Division Eight

PEOPLE v. LIDDELL

Counsel appointment order filed

John Colucci appointed to represent appellant on his appeal now pending in this court.

S132287

H027044 Sixth Appellate District

PEOPLE v. PATTON

Counsel appointment order filed

Eric Weaver appointed to represent appellant on his appeal now pending in this court.

S124179

D041058 Fourth Appellate District,
Division One

KOEKKE v. BERNARDO HEIGHTS COUNTRY

Request for judicial notice granted

Respondent's request for judicial notice, filed January 3, 2005, is granted. Respondent's further request pursuant to California Rules of Court, rule 29(b)(2), and to introduce additional evidence is denied.

S133595

B182657 Second Appellate District,
Division Seven

ZHONG v. S.C. (PEOPLE)

Order filed

Pending further order of this court, trial in People v. Zhong, Los Angeles County Superior Court No. VA083692, is hereby stayed.

S132788

B181698 Second Appellate District,
Division Eight

LYONS v. S.C. (PEOPLE)

Transferred to CA 2

The above-entitled matter is transferred to the Court of Appeal, Second Appellate District, for consideration in light of *Hagan v. Superior Court* (1962) 57 Cal.2d 767. In the event the Court of Appeal determines that this petition is substantially identical to a prior petition, the repetitious petition shall be denied.

B164713 Second Appellate District

DEBORAH LOWGREN v. INMAN, SPINOSA, ETC.

The above-entitled matter, now pending in the Court of Appeal, Second Appellate District, is transferred from Division Two to Division Seven.

B176845 Second Appellate District

WILLIAM ASPLIN v. L.A. COUNTY SHERIFFS

The above-entitled matter, now pending in the Court of Appeal, Second Appellate District, is transferred from Division Seven to Division Two.

B178547 Second Appellate District

PEOPLE v DONALD RAY S.

The above-entitled matter, now pending in the Court of Appeal, Second Appellate District, is transferred from Division Seven to Division Three.

Bar Misc. 4186

**IN THE MATTER OF THE APPLICATION OF
THE COMMITTEE OF BAR EXAMINERS OF
THE STATE BAR OF CALIFORNIA FOR
ADMISSION OF ATTORNEYS**

The written motion of the Committee of Bar Examiners that the following named applicants, who have fulfilled the requirements for admission to practice law in the State of California, be admitted to the practice of law in this state is hereby granted, with permission to the applicants to take the oath before a competent officer at another time and place:

(LIST OF NAMES ATTACHED TO
ORIGINAL ORDER)

**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
SAN FRANCISCO SESSION
MAY 24, 25, and 26, 2005
(FIRST AMENDED)**

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom, located at 350 McAllister Street, Fourth Floor, San Francisco, California, on May 24, 25, and 26, 2005.

TUESDAY, MAY 24, 2005 – 9:00 A.M.

S125912 Elisa B. v. Superior Court (Emily B., et al., Real Parties
in Interest.)
S125643 K.M. v. E.G.
S126945 Kristine H. v. Lisa R.

1:30 P.M.

S118180 People v. Martinez (Victor)
S014021 People v. Carter (Dean) (Automatic Appeal)
S023000 People v. Carter (Dean) (Automatic Appeal)

WEDNESDAY, MAY 25, 2005 – 9:00 A.M.

S125822 In re Josiah Z. -- (*Baxter, J. not participating; Woods, J.
assigned Justice Pro Tempore.*)
S115154 Yanowitz v. L'Oreal USA
S129821 Sara M. v. Superior Court (Tuolumne County Dept. of
Social Services, Real Party in Interest)

1:30 P.M.

S117735 Boghos v. Lloyd's of London
S011636 People v. Blair (James) (Automatic Appeal)

THURSDAY, MAY 26, 2005 – 9:00 A.M.

S124179 Koebke v. Bernardo Heights Country Club
S112505 In re Roberts (Orlando) on Habeas Corpus
S122058 California State Personnel Board v. CSEA

1:30 P.M.

S116223 Fitch v. Select Products Company
S116870 Department of Conservation v. County of El Dorado
(Brunius, Real Party in Interest)
S014664 People v. Gray (Mario) (Automatic Appeal)

GEORGE

Chief Justice

If exhibits are to be transmitted to this court, counsel must comply with Rule 18(c), California Rules of Court.

**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
LOS ANGELES SESSION
MAY 31, JUNE 1, and JUNE 2, 2005
(FIRST AMENDED)**

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom in the Ronald Reagan State Office Building, 300 South Spring Street, 3rd Floor, North Tower, Los Angeles, California on May 31, June 1, and June 2, 2005.

TUESDAY, MAY 31, 2005 – 2:00 P.M.

S123766	Scottsdale Insurance v. MV Transportation
S015008	People v. Schmeck (Mark) (Automatic Appeal)
S014200	People v. Dunkle (Jon) (Automatic Appeal)

WEDNESDAY, JUNE 1, 2005 – 9:00 A.M.

S117726	Cummins, Inc. v. Superior Court (Cox et al., Real Parties in Interest)
S122254	In re Marriage of Benson
S123344	Grafton Partners v. Superior Court (PricewaterhouseCoopers LLP, Real Party in Interest) -- (<i>Werdegard, J. not participating; Spencer, P. J. assigned Justice Pro Tempore.</i>)

1:30 P.M.

S115823	Reynolds v. Bement
S119046	State of California v. Altus Finance – (<i>Werdegard and Chin, JJ., not participating; Yegan and Zelon, JJ., assigned Justices Pro Tempore.</i>)
S021054	People v. Moon (Richard) (Automatic Appeal)

THURSDAY, JUNE 2, 2005 – 9:00 A.M.

S124003	People v. Garcia (Roy)
S113295	Powerine Oil v. Superior Court (Central National Ins. Co., Real Party in Interest)
S114778	County of San Diego v. Ace Property & Casualty Ins. Co.

1:30 P.M.

S058092	People v. Harris (Maurice) (Automatic Appeal)
S046176	People v. Cornwell (Glen) (Automatic Appeal)

GEORGE
Chief Justice

If exhibits are to be transmitted to this court, counsel must comply with Rule 18(c), California Rules of Court.